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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/827,057	04/19/2004	Blaise Ganzel	1-24765	2295

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MACMILLAN, SOBANSKI & TODD, LLC
ONE MARITIME PLAZA - FOURTH FLOOR
720 WATER STREET
TOLEDO, OH 43604

EXAMINER

SCHWARTZ, CHRISTOPHER P

ART UNIT PAPER NUMBER

3683

DATE MAILED: 04/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/827,057

Applicant(s)

GANZEL, BLAISE

Examiner

Christopher P. Schwartz

Art Unit

3683

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 September 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) 3-8 and 14-30 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,9-12,31-34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Christopher P. Schwartz
CHRISTOPHER P. SCHWARTZ
PRIMARY EXAMINER

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of Species A in the reply filed on 1/11/05 is acknowledged.
2. Claims 3-8, 14-30 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected Species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 1/11/05.
3. Applicant's reply filed 9/29/04 has been received and considered. No amendment to the claims has been made.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1,2 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 line 15 "said first brake actuator" is unclear since a set of first brake actuators was previously claimed on line 7. Which first brake actuator is this?

The same problem exists on line 22 with respect to "said second brake actuator".

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

Art Unit: 3683

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1,2 remain rejected under 35 U.S.C. 102(b) as being anticipated by Campau et al. '608.

Regarding claim 1 it is presumed applicants intended to claim the set of first and second brake actuators (as per their remarks on page 2 thereof). The same presumption was made in the previous office action.

Campau et al. discloses in figure 1 a brake module with which applicants are familiar including a first brake circuit of pressurized fluid (generally indicated at 4,6,61a-61d), a second circuit at 16 and a third circuit at 17. Note the portions of the second 16 and third 17 brake circuits that communicate with the brake actuators 11. From figure 1 the first 54a and second 54b fluid separator units can be seen to function as claimed. Note that any of the proportional valves at 51a-51d can be said to "act" on the first and second separator units and clearly meet the claimed requirement of "at least one proportional valve..." controlling the brake fluid of the first circuit 4,6,61a-d acting on the first and second fluid separator units 54a,54b.

Regarding claim 2, as broadly claimed, and as can be seen in the drawings these requirements are met.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

Art Unit: 3683

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 9-12, 31-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Campau et al. in view of Arwine et al. or Tanaka et al. or Ganzel '582..

Regarding claims 9,31 although Campau et al. does not show a "second brake module" per se, such modules are old and well known in the art. This is generally taught by either Arwine et al. or Tanaka et al. or Ganzel '582

One having ordinary skill in the art at the time the invention was made would have found it obvious to have supplied the device of Campau et al. with any or all of the modules claimed claims 10-12, as suggested by either Arwine et al. or Tanaka et al. or Ganzel '582, simply to improve the safety of the vehicle or to add some degree of modularity into the system of Ganzel to make replacement of component parts easier and/or less expensive. It is old and well known to make plural parts singular and vice-versa dependent upon such well known engineering considerations as simplicity of design, cost, and parts repair/interchangeability.

Regarding claims 30,32-34 as broadly claimed, these limitations are fairly suggested by Campau et al. as modified by any of the references above, since isolation valves are an old and well known integral part of electronically controlled braking systems with abs, asr and stability control modules.

8. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Campau et al. in view of either Arwine et al. or Tanaka et al. or Ganzel '582, as applied to claim 9 above, and further in view of Ganzel '484.

Regarding claim 13 simply to have used one three way proportional valve, as taught by Ganzel '484, instead of four as shown by Campau et al, would have been an obvious engineering choice of design dependent upon cost, complexity, and/or braking characteristics desired from the vehicle.

Response to Arguments

9. Applicant's arguments filed 9/29/04 have been fully considered but they are not persuasive. Applicant's argument on page 2 of their response seems to hinge on the presumption that "Campau neither shows nor suggests a proportional valve acting on a pair of separation units for applying pressurized brake to a first and second set of brake actuators. Campau, applicant's state, shows four three way proportional valves-- each controlling a respective wheel brake. It is noted that applicant's claim in claim 1 line 25 and claims 9 and 31 "at least one" proportional valve controlling brake fluid of the first circuit acting on the first and second separator units.

Applicant's remarks are more specific than the limitations found in the claims. Furthermore, the limitation of a single proportional valve has been addressed above with regard to claim 13.

With respect to the remaining claims applicant's merely state the references fail to suggest or disclose the claimed features.

This is simply incorrect. The references were applied and/or combined because they do in fact disclose or fairly suggest the claimed features. For instance, with regard to claims 10-12, it is unclear how applicant's can conclude that "the cited references either individually or in combination fail to show each second brake module in

Art Unit: 3683

cooperation with the claimed brake module". Ganzel '608 clearly shows a brake module at 10. The references to Arwine et al. shows "modules" at 26 and 78, Ganzel '582 suggests a plurality of "modules" in columns 1 and 2, and Tanaka et al., in figure 1 at elements 21-24, and 37.

Given the breadth of applicant's claims, and their arguments lacking, the rejection above is maintained.

Conclusion

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

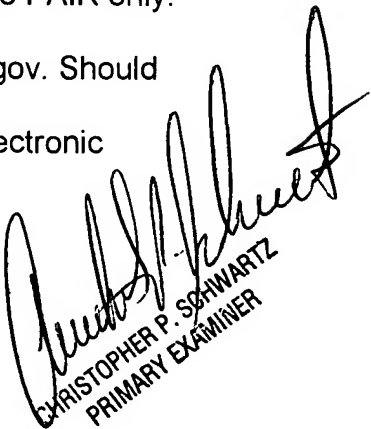
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher P. Schwartz whose telephone number is 703-308-0576. The examiner can normally be reached on M-F 9:30-6:00.

Art Unit: 3683

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dave Bucci can be reached on 703-308-3668. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Cps
4/1/05



CHRISTOPHER P. SCHWARTZ
PRIMARY EXAMINER